

LEGISLATIVE BILL 500

Approved by the Governor May 26, 2009

Introduced by Karpisek, 32.

FOR AN ACT relating to cemeteries; to amend sections 16-242 and 17-936, Reissue Revised Statutes of Nebraska, and section 12-402, Revised Statutes Cumulative Supplement, 2008; to authorize certain cities and villages to use funds for the general care of cemeteries as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 12-402, Revised Statutes Cumulative Supplement, 2008, is amended to read:

12-402 (1) The mayor and council or the board of trustees, for the purpose of defraying the cost of the care, management, improvement, beautifying, and welfare of such cemeteries and the inhabitants thereof, may each year levy a tax not exceeding five and two-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village subject to taxation for general purposes. The tax shall be collected and paid to the city or village as taxes for general purposes are collected and paid to the city or village. All taxes collected for this purpose shall constitute and be known as the cemetery fund and shall be used for the general care, management, improvement, beautifying, and welfare of such cemetery and the inhabitants thereof. Warrants upon this fund shall be drawn by the cemetery board and shall be paid by the city or village treasurer. The city council or the board of trustees may issue a warrant from the cemetery fund if a payment is due and the cemetery board is not scheduled to meet prior to such due date to authorize the warrant.

~~(2) If the mayor and council or the board of trustees sets aside the proceeds from the sale of lots as a perpetual fund, the principal of the fund that is attributable to such proceeds, or attributable to any money which has come to the fund by donation, bequest, or otherwise that does not prohibit such use, may be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of such principal is so used in any fiscal year and no more than thirty-five percent of such principal is so used in any period of ten consecutive fiscal years.~~

(2) The mayor and council or the board of trustees may set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(3) The mayor and council or the board of trustees may receive money by donation, bequest, or otherwise for credit to the perpetual fund to be invested as provided by ordinance or as conditioned by the donor. The income therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate. The principal therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal therefrom may also be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

~~(3) (4) This section does not limit the use of any money that comes to the city or village by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for~~

purchase or development of additional land to be used for cemetery purposes.

Sec. 2. Section 16-242, Reissue Revised Statutes of Nebraska, is amended to read:

16-242 (1) A city of the first class may survey, plat, map, grade, fence, ornament, and otherwise improve all burial and cemetery grounds and avenues leading thereto owned by such city. It may construct walks, rear and protect ornamental trees therein, and provide for paying the expenses thereof.

(2) After the burial and cemetery grounds are fully paid for, the city may set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund ~~shall~~ may be used for the ~~care, ornamentation, or maintenance of such lots or the cemetery in general.~~ general care, management, maintenance, improvement, beautifying, and welfare of the cemetery. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(3) The city may receive money by donation, bequest, or otherwise ~~to be held in trust in perpetuity for credit to the perpetual fund~~ to be invested as provided by ordinance or as conditioned by the donor. The income therefrom ~~shall~~ may be used for the ~~care, ornamentation, and maintenance of such property~~ general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate. The principal therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal therefrom may also be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(4) The city treasurer shall be the custodian of such funds, and the same shall be invested by a board composed of the mayor, city treasurer, and city clerk.

(5) This section does not limit the use of any money that comes to the city by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for purchase or development of additional land to be used for cemetery purposes.

Sec. 3. Section 17-936, Reissue Revised Statutes of Nebraska, is amended to read:

17-936 In case of the transfer of the management and control of such village or city cemetery, as provided in sections 17-934 and 17-935, the cemetery board erected under section 12-401 shall have no jurisdiction over the management and control of such cemetery after ~~said~~ the transfer. In the event of such transfer, ~~as aforesaid,~~ any funds or any money to the credit of the cemetery fund or any perpetual fund created under section 12-402, shall be paid over by the village treasurer of such village or by the city treasurer of such city to the treasurer of the cemetery association; and all endowments contemplated under section 12-301 to such village or city cemetery shall vest absolutely in the cemetery association to whom the control and management of such cemetery shall have been transferred.

Sec. 4. Original sections 16-242 and 17-936, Reissue Revised Statutes of Nebraska, and section 12-402, Revised Statutes Cumulative Supplement, 2008, are repealed.